

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM AUBREY,

Defendant.

Case No. 2:09-cr-0206-KJD-PAL

ORDER

Defendant, after a jury trial, was found guilty of two counts of violating 18 U.S.C. § 1163, embezzlement, theft, misapplication and conversion of money and funds from a tribal organization. See Jury Verdict, Doc. No. 149. At sentencing, the Court set the issue of restitution for a separate hearing. At conclusion of the hearing, the Court ordered additional briefing. See Doc. No. 190. Having considered the evidence adduced at trial, the restitution hearing, and the pre and post hearing briefs of the parties the Court finds that the Government has met its burden of proving the amount of loss to each victim by a preponderance of the evidence. See 18 U.S.C. § 3664(e); United States v. Andrews, 600 F.3d 1167, 1171 (9th Cir. 2010).¹

The Court finds that even after crediting Defendant with the amounts that he and Lodgebuilder paid in the bankruptcy proceeding to resolve the claims of the Chilchenbeto unsecured creditors (Pool 16), i.e. the unpaid contractors and suppliers, plus crediting the \$1,000,000.00 USDA loan, Defendant is responsible for an additional \$1,075,637.90 that Fort Defiance Housing Corporation (“FHDC”) was forced to repay to the Navajo Housing Authority (“NHA”) for work completed or funded by the NHA in regards to the Chilchenbeto housing project.

¹ To be sure, Defendant’s misapplication of the funds (over ten million dollars), commingling it with the assets of his business, Lodgebuilder, Inc. and his own personal finances made the task of the Government and the Court exceedingly difficult.

Further, Defendant must pay restitution of \$790,806.00 to the NHA for funds that were requisitioned by Defendant on behalf of Lodgebuilder who was managing South Shiprock Houses, Inc. The requisition submitted by South Shiprock asked for a release of \$1,402,500.00 of NAHASDA funds. NHA officials approved the payment, even though supporting documents justifying the claim for reimbursement were not contemporaneously filed. They did so with the understanding that Defendant would provide invoices accounting for the expenditure by Lodgebuilder of \$883,150.96 of NAHASDA funds. Defendant only provided payroll records accounting for \$92,344.82 of the funds. Defendant never accounted for the remaining \$790.806.14. NHA was subsequently required to refund this amount to the Department of Housing and Urban Development (“HUD”) following an audit.

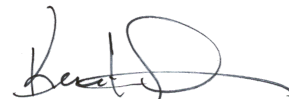
Finally, Defendant must pay Gus Peterson restitution of \$57,661.36 for his unpaid work completing construction on the Chilchenbeto project at Aubrey’s behest. While Defendant attempts to push the costs to FDHC or NHA, the contract was negotiated between Lodgebuilder and Peterson and was signed at a time in which Defendant knew that he had misapplied the NAHASDA funds and that payment for contractors and suppliers was up in the air.

Accordingly, an amended judgment will be prepared ordering restitution be paid to:

- Fort Defiance Housing Corporation in the amount of \$1,075,637.90;
- Navajo Housing Authority in the amount of \$790,806.00; and to
- Gus Peterson in the amount of \$57,661.36.

IT IS SO ORDERED.

DATED this 18th day of February 2021.



The Honorable Kent J. Dawson
United States District Judge